



# Legal Newsletter

## Office of the Staff Judge Advocate Fort Dix, New Jersey



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### PREAMBLE

It is an alarming event to receive notice that a legal proceeding has been filed against you. Especially when the action is pending in another state or county (for those deployed overseas). This newsletter contains some valuable information about the Soldiers' and Sailors' Civil Relief Act and contains timely information about voting as well.

If you have comments on this newsletter, please contact me at [peter.masterton@dix.army.mil](mailto:peter.masterton@dix.army.mil).

LTC Pete Masterton  
Fort Dix Staff Judge Advocate

magistrate or justice of the peace? Have you been denied credit because of an "outstanding judgment" against you from a court you never heard of? If you've answered yes to any of these questions you should be interested in the protections afforded to service members by the Soldiers' and Sailors' Civil Relief Act ([SSCRA](#)).



### Being Sued And Can't Get To Court?

Did you receive a certified letter commanding you appear in a courtroom 3000 miles away five days ago? Have you recently phoned home from overseas to learn that you received some "official looking papers" from a

The SSCRA is a federal law that may protect soldiers on active duty. One part of the law protects military members from default judgments in state courts. Congress enacted it understanding that military duty may prohibit military members from defending themselves in court. Because of mobilizations, field exercises, and frequent moves and

address changes, some soldiers may not even be aware they are being sued.

The law requires plaintiffs and courts to determine whether a defendant is on active duty in military service before any court issues a default judgment. A soldier on active duty may request that the court appoint an attorney to represent him/her before any judgment can be entered. If the soldier's duty materially interferes with her ability to respond to the lawsuit, the soldier or the court appointed attorney may request that proceedings be stopped or stayed. This "stay" of proceedings, however, is not permanent and will be lifted as soon as the soldier's duty no longer interferes with his/her ability to defend. This usually means until the soldier is back from the field or until the soldier can take leave to travel to the jurisdiction of the court. The law does not make soldiers immune from suit and usually overseas duty is not, by itself, sufficient justification to delay a court proceeding.

A soldier who has already suffered a default judgment may be able to open that judgment by showing that the military duty materially affected the ability to make a defense and that he actually has a meritorious defense. Also, the judgment must have been entered while the soldier was on active duty or within 30 days of their release from active duty service, and the soldier must request the relief while on active duty or within 90 days of release.

The SSCRA provides substantial protection to soldiers. However, these rights must be asserted before they will help. The most important part of protecting your interests is taking the initiative and using the resources

available to you - consult your area legal assistance attorney for advice.

If you have any questions related to this or any other legal assistance matter, contact the Fort Dix Legal Assistance Office at (609) 562-3043 to schedule an appointment.

### **Remember to Vote!**

In accordance with the Army Voting Assistance Plan all military personnel are to have "In Hand" a Federal Post Card Registration and Absentee Request Form, (SF 76 Form) by 15 September 2002. Absentee voting assistance may be obtained at the office of the Military Personnel Directorate at Fort Dix. Although the office does not have ballots, they have registration forms to obtain absentee ballots from each of the respective states. Note that the deadline for mailing absentee ballots varies from state to state. Some require that the ballots be postmarked no later than 5 November, while others require the ballots to be received no later than 5 November by a specific time.



In addition to consulting your local Voting Assistance Officer, soldiers, civilian employees, and family members stationed overseas and/or planning to

vote by absentee ballot may check the [Federal Voting Assistance Program](#) (FVAP) website, <http://www.fvap.ncr.gov> for information on the voting rules at federal, state, and local levels. The [Federal Election Commission](#) web site includes an online informative [Citizen's Guide](#), "a tool for anyone who wishes to learn more about financing campaigns for federal office, the rules and regulations pertaining to this process, or elections and voting in general." Also see, [Political Activities & Campaigning](#).

Where you vote is an important indication of your domicile or legal residence. If you were not registered to vote before you joined the military, you should register now, so that you can vote by absentee ballot. If you do not know how to contact your civilian home voting registrar, ask your military voting assistance officer or visit the [FVAP](#) web site. Consult the Voting Assistance Guide: <http://www.fvap.ncr.gov/publications/vaginfo.html> for information on registering to vote by absentee ballot.

As we have learned from history, one vote can make a difference. For those individuals who can only vote by absentee ballot, it is imperative that they become informed of the deadlines to vote and obtain the ballots in advance. If you have any additional questions, you can contact Mr. Joseph M. Logan, Program Coordinator, Military Personnel Directorate at [joseph.logan@dix.army.mil](mailto:joseph.logan@dix.army.mil) or call (609) 562-3306.